

# Government of the District of Columbia

## ZONING COMMISSION



ZONING COMMISSION ORDER NO. 351\*  
CASE NO. 81-1P  
September 10, 1981

Pursuant to notice a public hearing of the District of Columbia Zoning Commission was held on July 13, 1981. At that hearing the Zoning Commission considered an application from Laughlin, Jennifer, and Mrs. Duncan Phillips for preliminary approval of a planned unit development (PUD), under Article 75 of the Zoning Regulations of the District of Columbia. The hearing was conducted under the provisions of Chapter 6 of the Rules of Practice and Procedure before the Zoning Commission.

### FINDINGS OF FACT

1. The subject property constitutes 13.67 acres of the total of 16.37 acres owned by the Phillips Family located at the southeast corner of the intersection of Foxhall Road and W Street, N.W. The PUD site includes lots 806,812,815,817 and a portion of Lot 816 in Square 1346, excluding 2.70 acres located in the northwest corner of lot 816 upon which the existing residence of Mrs. Duncan Phillips is located.
2. The site is split zoned with 12.37 acres in the northern portion of the site located in the R-1-A Zone District and 1.3 acres in the southern portion of the site located in the R-1-B Zone District. The applicants do not request a change of zoning.
3. The R-1-A District permits matter-of-right development of single-family residential uses for detached dwellings with a minimum lot area of 7,500 square feet, a minimum lot width of seventy-five feet, a maximum lot occupancy of forty percent, and a maximum height of three stories/forty feet. The R-1-B District permits matter-of-right development of single family residential uses for detached dwellings with a minimum lot area of 5000 square feet, a minimum lot width of fifty feet, a maximum lot occupancy of forty percent, and a maximum height of three stories/forty feet. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to impose development conditions, guidelines, and standards which may exceed or be lesser than the matter-

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\* NOTE: This order was amended by Z.C. Order No. 374 dated 5-24-82.

of-right development standards identified above.

4. The original application proposed to construct a residential development consisting of a mixture of seventy detached, semi-detached, and row single-family dwellings, each on a separate assessment and taxation lot. The project included space for a swimming pool and two tennis courts, clustered housing arrangements, open spaces, and off-street parking spaces totalling 203.
5. The PUD site is presently undeveloped. It is a relatively steeply sloping site with several open areas and several densely wooded tree stands. The lowest elevation of the site is located at the southeast corner, the area to which approximately eighty percent of the site naturally drains.
6. The subject site is bounded on the north by W Street, N.W., and by the residence of Mrs. Duncan Phillips. To the north of W Street is a neighborhood of single-family detached homes. The site is bounded on the east by the 44th Street right-of-way and on the south by Whitehaven Parkway. Glover Archbold Park is located to the east of the 44th Street right-of-way. Immediately to the west is Foxhall Road and a single-family dwelling. Mount Vernon College is located across Foxhall Road to the west.
7. The land use pattern of the immediate area consists of institutional uses and residential neighborhoods which generally conform with existing R-1-A and R-1-B Zone Districts. There are several embassies and chanceries in the area, including the Embassy of Belgium, the Embassy and Chancery of the Federal Republic of Germany, and the Embassy of Singapore. Recent development in the area include new residential developments, such as Hillandale, Foxhall Crescents, the Cloisters, and Foxhall Terrace.
8. In a plan filed at the public hearing, the applicants proposed to develop sixty-three single-family residential units, including forty-two attached units and twenty-one detached units. This sixty-three unit plan is referred to as the "Preferred Site Plan". It is a revision of the seventy unit plan submitted in the original application on January 19, 1981, which is known as the "Illustrative Site Plan". The applicants modified the seventy unit plan to accommodate the concerns

of citizens groups, neighbors and governmental agencies. The sixty-three unit plan was introduced as an amendment to the seventy-unit plan at the public hearing.

9. In addition to reducing the total number of units, as compared to the seventy-unit Illustrative Site Plan, the Preferred Site Plan retains more of the existing trees on the site, reduces the amount of grading and preserves more of the natural slopes on the site. The tennis courts and swimming pool, shown in the Illustrative Site Plan, have been eliminated in the Preferred Site Plan to allow for a greater amount of open space and tree protection. In the Illustrative Site Plan access to the site was provided by an entrance on W Street, N.W., with a secondary, emergency-only entrance on Foxhall Road. To lessen traffic impact on W Street, the Preferred Site Plan provided for a re-designing of the emergency-only access on Foxhall Road shown on the Illustrative Site Plans to a general entrance with movement limited to right-turn in, and right-turn out as shown on the Preferred Site Plan.
10. The Preferred Site Plan includes sixty-three units with a mixture of row, semi-detached and detached houses in the center of the site and detached houses on the periphery of the site. Forty-two attached units are to be grouped in clusters in the interior of the site. There will be a private yard, entrance and two garage parking spaces for each unit. An additional two parking spaces will be available in the driveway of most of the units. There will also be seventy-five additional spaces available on the streets of the project. The twenty-one detached units will be located on the perimeter of the site. The overall density of the development will not exceed 0.4 FAR, the lot occupancy will not exceed twenty-two percent and no building will exceed forty feet in height.
11. The applicants propose to complete the first-step approval process and then choose a developer to participate in the second-step application. It is contemplated that the attached units will be designed, constructed, and marketed by the developer. Detached units will either be built by the developer or sold as lots to individual persons, who will develop their own homes under the PUD standards. In both cases, individual assessment and taxation lots will be sold to purchasers who will acquire a fee simple interest in their residences. The balance of the property will be owned in common by the residents of the development and will be managed by a homeowners' association.
12. The applicants have applied to the D.C. Department of Housing and Community Development for review of the site plan under the Mayor's Large Tract Development Review Process.

13. The site is well suited for a PUD and could be developed under existing zoning for a maximum of seventy units. Only under a PUD would it be possible to avoid alteration of steep slopes which characterize the site's topography, avoid removal of existing trees, preserve open areas, minimize grading, and create a storm water detention pond.
14. An evaluation of topography, soils, and subsurface conditions on the site indicated that the property is suitable for residential development with proper provisions for erosion control and storm water management.
15. No rare, endangered, threatened, or protected species of plant life were found on the site, nor do rare, endangered or threatened species of animal life inhabit the site. Development of the site can take place without threat to any protected species or species' habitat.
16. There are no buildings or structures on the site designated as historic landmarks, nor is the site part of any historic district.
17. The applicants propose to protect forty-one percent of the site's existing healthy trees with a trunk diameter of five inches or greater at chest height. The applicants demonstrated at the public hearing that this would be impossible under matter-of-right development.
18. The applicants propose to build a storm water detention pond in the southeast corner of the site, the location to which approximately eighty percent of the site drains. The applicants indicated that District of Columbia regulations require that a storm water detention pond, if provided, be capable of accommodating a "fifteen-year" storm. The pond proposed by the applicants is designed to accommodate a twenty-five year storm, and can safely discharge a one hundred year storm. The pond is also designed to trap pollutants, which are to be cleaned out of the pond periodically.
19. The Preferred Site Plan locates detached units on the periphery of the site. Along the eastern border of the site, setbacks of these units will be varied in order to reduce the impact of these units on the view from Glover-Archbold Park. In addition, placing detached units on the periphery of the site will allow the PUD to blend with neighboring houses.

20. The estimated annual District of Columbia tax revenues from the subject development, including real estate taxes, income taxes, and sales taxes will far exceed any costs this development may place on the District of Columbia Government, based on the projected cost of providing the PUD residents with police protection, fire protection, recreation services, and library service. The impact on the public school system will be minimal, as D.C. School officials estimate that house-holds with incomes similar to those expected in the project send school-aged children to private schools.
21. The applicants, through testimony presented by their traffic expert, indicated that all streets, sidewalks, and parking areas within the property will be private. All services such as trash collection, snow removal, maintenance of streets and sidewalks, maintenance of forest areas and landscaped areas will be managed by the homeowners' association. The configuration and design of internal roadways of the project will allow for traffic movement within the site and onto nearby streets and the roadway system has received the approval of D.C. Department of Transportation and the D.C. Fire Department.
22. The traffic expert further testified that the parking on site will be adequate to accommodate the needs of all residents and their guests.
23. In the Preferred Site Plan, the applicants, proposed a site access plan which included an entrance on W Street and an entrance on Foxhall Road designed to allow only right turns into the site from Foxhall Road and right turns out from the site onto Foxhall Road. The traffic expert indicated that this plan had been designed after consultations with neighborhood groups and the D.C. Department of Transportation. He also indicated that, according to this plan, the site generated traffic at the intersection of Foxhall Road and W Street will be at acceptable levels of service during morning and evening peak hours. He testified that the level of traffic would not require the installation of a traffic signal at this intersection solely to serve the PUD and that the installation of a traffic signal at Foxhall and W Street, N.W. would improve movement of traffic from W Street to Foxhall Road. The applicants expressed willingness to pay the cost of the installation of such a signal.

24. The applicants stated their willingness to work with the National Park Service (NPS) on the details of a scenic easement to be granted to the NPS protecting the tree canopy of the site and the view of homes from the Glover-Archbold Park.
25. The applicants propose to apply to the District of Columbia Government to close the 44th Street right-of-way adjacent to the site. Upon closure of the 44th Street right-of-way, the applicants propose to convey their interest in the right-of-way to the NPS with an easement of at least twenty-five feet to be granted to the D.C. Department of Environmental Services for fewer access and maintenance.
26. The Office of Planning and Development (OPD) by memorandum dated June 3, 1981 and by testimony presented at the public hearing, indicated that "the OPD is of the opinion that this project is fully consistent with the objectives of Articles 75 of the Zoning Regulations. The synthesis of sensitive land use planning, imaginative design and technical competence which is evident in the proposal will ensure an environment which is vastly superior to that likely to occur if the site were to be developed as a matter-of-right. It is also apparent that in the evolution of the project's design that the concerns of the community, neighbors and government officials involved in the project have been addressed in a forthright manner." The OPD recommended approval of the application, subject to conditions, guide lines, and standards as proposed and refined in its summary/abstract memorandum dated August 3, 1981.
27. The D.C. Department of Transportation (DCDOT) by memorandum dated June 15, 1981 and by testimony presented at the public hearing, indicated that the proposal by the applicant to install a traffic signal at the intersection of W Street and Foxhall Road, N.W. was not warranted. The DCDOT was prepared to concur with the proposed development provided that:
  - a. The operation of the driveway will not result in a safety hazard on Foxhall Road.
  - b. The applicant will dedicate to the city a strip of land approximately 200 feet long and of sufficient width for a right turn storage lane from north-bound Foxhall Road to the proposed driveway. The facility will consist of 100 feet of paralld land plus 100 feet of approach taper. This will serve to separate through traffic from local traffic destined for the site.

- c. The operation of the driveway will be designed to physically restrict development traffic to right-in and right-out, only.

The DCDOT recommended that the applicant work with it in designing the driveway to obtain DCDOT approval. The DCDOT agreed, at the request of the Zoning Commission, to study the feasibility of using the Foxhall Road access as the main ingress and egress for the site.

28. The D.C. Fire Department, through the report of the OPD indicated that both the original plan and the alternate plan have been reviewed by the Fire Department. Either proposal is acceptable to the Fire Department from the standpoint of fire safety. The emergency access and the cul-de-sacs were designed in conjunction with the Fire Department's recommendations. The Fire Department has requested that the specific design of the emergency access, if approved, be submitted to them for review. Water pressure in the area is adequate and the Department has reviewed the location of fire hydrants in the development.
29. The D.C. Department of Environmental Services (DES), by memorandum dated May 12, 1981, and by reference in the OPD report, indicated that DES has no objection to the proposed development. If 44th Street is closed, DES will require an easement of at least twenty-five feet for access and maintenance of an existing sewer. Sewer and water facilities are available to the site and the DES was pleased that the storm water management pond will be part of the proposed development.
30. The D.C. Department of Recreation, by report dated May 20, 1981, by reference in the OPD report and by report dated June 2, 1981, indicated that the "proposal will provide benefits to the city well in excess of those likely from a matter-of-right subdivision". The Department preferred the original site plan, in lieu of the revised site plan, because it favored the inclusion of tennis courts and a swimming pool as part of the development package, and an area with play apparatus for small children.
31. The D.C. Department of Housing and Community Development (DHCD) by memorandum dated June 17, 1981 and by reference in the OPD report, had no objection to the proposed PUD. The DHCD noted that because the alternate proposal places fewer houses adjacent to the existing parkland, it is preferable to the original plan. The DHCD also noted that the proposals meet the letter and intent of the Large Tract Development Regulations.

32. The National Capital Planning Commission (NCPC), by letter dated April 3, 1981, indicated its interest in the application because of concerns relative to the federal interests. By testimony presented at the public hearing, the NCPC, by representative, indicated that Federal interests have been adequately considered at this stage of the PUD process.
33. Advisory Neighborhood Commission 3D, by letter to the Zoning Commission dated July 2, 1981, indicated that the ANC fully supported the proposed development and commended the applicants' efforts in working with citizen groups and individuals in the design of the project.
34. The Coalition for Planned Environmental Development (CPED), by testimony presented at the public hearing, supported the application. The CPED retained the professional services of an architect who worked with the applicants in designing the Preferred Site Plan along lines acceptable to CPED. The CPED indicated that it has worked with the applicants toward the resolution of several issues, including the number and location of units, tree and slope preservation, and the access to the site. The CPED reached an agreement, with the applicants which has the concurrence of several citizen organizations in the area, including the Committee of 100, the Palisades Citizens Association, the Wesley Heights-Spring Valley Citizens Association and the North Foxhall Road Citizens Association. All of these organizations support the proposed development. The CPED Applicants Agreement dated June 10, 1981, provides that CPED will support the plan submitted by the applicants and that the applicants will continue to work closely with CPED.
35. The neighbor whose property abuts the project site on Foxhall Road appeared as a party in favor of the application. He has also concurred in the CPED agreement.
36. Several neighbors to the PUD site, who are residents of W Street and Foxboro Place directly to the north of the site, appeared as parties in opposition to the application. There was also one person who testified in opposition. The only objection these parties had to the proposed development concerned the site access system, specifically, the restriction of the Foxhall Road access to right-turn-in and right-turn-out and the resulting flow of all of the PUD's south-bound traffic through W Street with a left-hand turn at the intersection of Foxhall Road and W Street. The parties' chief concern was that W Street, because of its steep grade and the configuration of Foxhall Road, would become backed-up whenever snow or ice



were present on the roadway. The residents presented no expert testimony on the access issue, but related past conditions on W Street.

37. The parties in opposition requested that left-hand turns be permitted at the site's Foxhall Road access and that a traffic signal be installed at that intersection, if necessary.
38. The D.C. Department of Transportation, by the testimony at the public hearing, agreed to study the installation of a traffic signal at both the Foxhall Road access and the intersection of Foxhall Road and W Street in the second-stage PUD application. The Commission requested the D.C. Department of Transportation to prepare a report on the possibility of a left turn directly onto and off of Foxhall Road from the subject site. This study is to be completed by the time of the Stage-Two application.
39. The Commission finds that in response to the site plan preferences of the Departments of Housing and Community Development, and Recreation, the provision of large areas of common open space adds to the environmental quality of the development and that active recreation facilities are less critical than protecting existing trees.
40. The Commission finds that ingress and egress issues have yet to be resolved. Such issues can be resolved with the assistance of the DCDOT during the second-stage processing of this application.

#### CONCLUSIONS OF LAW

1. The planned unit development process is an appropriate means of controlling development of the subject site. Control of development of the site is essential to ensure compatibility of the project with the neighborhood and to ensure the implementation of many amenities proposed for the project.
2. The development of this PUD carries out the purposes of Article 75 to encourage the development of well planned residential developments which will offer a variety of building types with more attractive and efficient overall planning and design without sacrificing creation and imaginative planning.
3. The PUD is compatible with the District of Columbia's Goals and Policies Act of 1978 and is compatible with city-wide and neighborhood goals, plans and programs. It will promote efficient and economical utilization of land, attractive urban desing, provision of desired public spaces and

improved circulation while assuring the protection of the public health, safety, welfare and convenience,

4. Approval of the application would be consistent with the purposes of the Zoning Act.
5. The proposed application can be approved with conditions which would ensure that development would not have an adverse impact on the surrounding community.
6. The approval of the application would promote orderly development and conformity with the entirety of the District of Columbia Zone Plan, as embodied in the Zoning Regulations and Maps of the District of Columbia.
7. The Zoning Commission has accorded to the Advisory Neighborhood Commission 3D the "great weight" to which it is entitled.

#### DECISION

The only major contested issue in the subject application relates to the access to the subject property, and the impact of restricting southbound traffic to use of W Street to get into and out of the development. The Commission believes that the applicant, working with its traffic experts, the D.C. Department of Transportation and the affected parties in opposition, can develop a plan which adequately address the traffic impact on W Street. The Commission, however, cautions the applicant that, if a plan is not developed which minimizes the traffic impact on W Street to the Commission's satisfaction, denial of the entire application at the second stage may result.

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission hereby orders approval of the preliminary application for a Planned Unit Development for 13.67 acres of property in Square 1346, Lots 806, 812, 815, 817 and a portion of Lot 816 (excluding 2.70 acres in the northwest corner), as shown on Site Boundary dated July, 1981 prepared by Douglas M. Detwiler and Associates, Inc., Exhibit No. 52 submitted into the record on July 13, 1981, subject to the following guidelines, conditions and standards:

1. The property shall be developed under the existing R-1-A and R-1-B zoning.
2. The use of the property shall be limited to single-family dwellings and may also include other buildings and structures accessory and incidental to the main use of the property, including recreational and storage facilities.
3. The overall density of the planned unit development shall not exceed 0.4 FAR. The maximum number of dwelling units shall not exceed sixty-three.
4. The maximum height of any building shall not exceed forty feet. If the second stage application proposes that a building which is adjacent to Glover-Archbold or Whitehaven Parks will have a height facing the park in excess of thirty feet, then the applicant shall demonstrate to the Zoning Commission the effect that such height will have on the adjacent park.
5. The overall lot occupancy for the planned unit development shall not exceed twenty-two percent.
6. A minimum of twenty-eight percent of the site shall remain as common open space.
7. The minimum number of parking spaces shall be 201 including, a minimum of two off-street spaces per dwelling unit, for a total of 126 spaces, and a minimum of seventy-five spaces on the interior streets for use by visitors.
8. All interior roadways shall be private streets and shall be designed in accordance with any applicable D.C. Department of Transportation and Fire Department standards.
9. Access to the planned unit development shall be from Foxhall Road and "W" Street. It is the intention of the Zoning Commission that as much traffic as possible enter and exit directly from Foxhall Road, with the amount of traffic using "W" Street kept to a minimum. The proposed design of all access points, including channelization, traffic signals, pavement markings, and other details shall be developed by the applicant in consultation with the D.C. Department of Transportation and the parties who appeared before the Zoning Commission. The proposed design shall be included in the second-stage application, and shall be

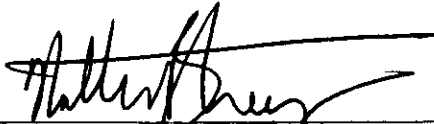
subject to approval by the Zoning Commission. Failure to develop a design which adequately addresses the Commission's concerns to minimize the traffic impact on "W" Street may lead to denial of the second stage application.

10. Landscaping shall be carried out in accordance with the general landscaping plan shown on Exhibit No. 41-B of the record. Similar types of plant materials may be substituted for those plant materials listed. Additional quantities of planting material may be added to the plan. All significant trees to be saved, including those located on individual lots, shall be depicted. The landscaping plan shall also show the location, height and type of all fences proposed to be erected.
11. The final design of the project shall be based on the Preferred Site Plan marked as Exhibit No. 41-B of the record. The second stage application shall include detailed architectural, landscape, grading, surface drainage and utility plans. The location of all houses and related structures, paved areas and other site structures shall be shown in the second stage plans.
12. No building or structure shall be closer than thirty feet to the boundary of the site where that boundary abuts Whitehaven Park, Glover Archbold Park and the existing right-of-way of 44th Street, N.W. That thirty foot setback may be adjusted by the Commission upon consideration of the second stage application if strict adherence to the setback would cause destruction of significant trees or other adverse environmental consequences.
13. The second stage application shall include a construction management plan which shall describe development phases, construction access, storage and staging areas, and tree protection methods.
14. The second stage application shall show proposed utility easements and proposed scenic easements.
15. The second stage application shall include illustrative unit plans, proposed development standards for the detached homes, and proposed sample covenants regarding architectural controls, easements and methods for maintenance of common open space areas. The second stage application shall also include design standards to be applicable to the lots upon which custom homes are to be constructed.
16. The applicant shall, after consultation with the National Park Service, submit with the second stage application a

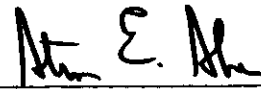
draft scenic easement to be conveyed to the National Park Service. The purposes of such easement shall be to protect the tree canopy on the entire site and to minimize the visual impact of houses from Glover-Archbold and Whitehaven Parks.

17. Upon final approval of the planned unit development, the applicant shall apply to the District of Columbia Government to close the 44th Street right-of-way. Upon closure of 44th Street, the applicant will convey its interest in the right-of-way to the National Park Service, with an easement of at least 25 feet to be granted to the D. C. Department of Environmental Services.
18. No site grading or other change in the existing character of the property, including removal of existing trees or vegetation, shall take place prior to approval of the detailed site and landscaping plans by the Zoning Commission in the second stage proceeding.
19. This approval is valid for a period of one-year from the effective date of this order. Within that period, the applicant shall file a second-stage application if this first stage approval is to remain in effect.

Vote of the Commission taken at the public meeting of August 13, 1981: 3-0(Lindsley Williams, John G. Parsons and Walter B. Lewis, to approve with conditions-Ruby B. McZier, not voting not having participate in the case and George M. White, not present not voting).



WALTER B. LEWIS  
Chairman  
Zoning Commission



STEVEN E. SHER  
Executive Director  
Zoning Secretariat

This order was adopted by the Zoning Commission at its public meeting held on September 10, 1981 by a vote of 3-0(John G. Parsons, Lindsley Williams, and Walter B. Lewis, to adopt - Ruby B. McZier, not voting not having participated in the case, and George M. White, not present, not voting).

In accordance with Section 4.5 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, this order is final and effective on 25 SEP 1981.

\* NOTE: This order was amended by Z.C. Order No. 374 dated 5-24-82.